

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:
	:
v.	:
	:
PPASSIM ELDER and WILBERT BRYANT,	:
	:
Defendants.	:
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ORDER
18-CR-92 (WFK)


WILLIAM F. KUNTZ, II, United States District Judge:

On March 12, 2020, the United States of America filed a fourteen-count Fifth Superseding Indictment (the “Indictment”) against Ppassim Elder and Wilbert Bryant (collectively, “Defendants”). *See* ECF No. 230. On October 1, 2021, a jury found Defendant Elder guilty of Counts One through Thirteen and Defendant Bryant guilty of Counts Two, Seven, Eight, Nine, and Ten. The jury acquitted Defendant Elder on Count Fourteen.

On May 20, 2021, Ppassim Elder filed a pretrial motion requesting, among other things, dismissal of Counts Nine and Ten of the Indictment, which are based on the crime charged in Count Eight. ECF No. 275. Count Eight charges Elder and Bryant with knowingly and intentionally threatening to commit and committing physical violence against Mahmoud and Hani Kasem in furtherance of a plan to commit extortion, in violation of 18 U.S.C. § 1951(a). Counts Nine and Ten of the Superseding Indictment relate to the same conduct giving rise to Count Eight. Specifically, Count Nine charges Defendants with knowingly and intentionally using and carrying a firearm during and in relation to a crime of violence and possessing, brandishing, and discharging that firearm in furtherance of the crime in violation of 18 U.S.C. §§ 924(c)(1)(A)(i)–(iii). Count Ten charges Defendants with committing murder during that crime of violence in violation of 18 U.S.C. § 924(j)(1). On August 25, 2021, the Court denied the motion. ECF No. 316.

Before the Court are Defendants' motions for reconsideration of the Court's decision denying the motion. ECF Nos. 420, 424. In light of recent Supreme Court and Second Circuit decisions, *see, e.g., United States v. Taylor*, 142 S. Ct. 2015 (2022) and *United States v. Chappelle*, 41 F.4th 102 (2d Cir. 2022), and on consent of the parties, the Court GRANTS Defendants' motions to dismiss Counts Nine and Ten of the Fifth Superseding Indictment as to Defendants Elder and Bryant.

SO ORDERED.


s/ WFK
HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: November 9, 2022
Brooklyn, New York